DOCKET NO.: HHD-CV-22-6160099-S	:	SUPERIOR COURT
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751 WEED STREET, LLC ET AL	:	JUDICIAL DISTRICT OF HARTFORD
	:	LAND USE LITIGATION
v.	:	
	:	
WATER POLLUTION CONTROL AUTHORITY	:	
OF THE TOWN OF NEW CANAAN	:	JANUARY 17, 2023

BRIEF OF THE DEFENDANT WATER POLLUTION CONTROL AUTHORITY

I. BACKGOUND.

The first sixteen (16) pages of the plaintiff's brief contain an introduction and plaintiff's version of the "undisputed" facts. Many of those facts are irrelevant. Many of the facts are inaccurate. Many of the facts are cherry-picked and self-serving. Many of the facts obfuscate the real issue in this matter. The relevant facts are much simpler.

The plaintiff owns a parcel of land developed with a single-family dwelling. The dwelling is currently connected to the town sewer on Elm Street by way a pipe that passes through an easement on private property. That pipe serves several properties in addition to plaintiff's property. The plaintiff filed an application which would permit it to extend the sewer main pipe on Elm Street for 135 linear feet, ending at a new proposed manhole adjacent to plaintiff's property. The plaintiff characterized this process as a mere relocation of the connection (that the property already enjoys at the terminus of the easement pipe at the existing sewer in Elm Street) and not as an extension of the sewer. The plaintiff likes to use the phrase "sewer service" in place of the word "sewer". The WPCA disagreed. More importantly, the WPCA deemed it unnecessary for the Town to add 135 feet of new sewer pipe for the

convenience of the plaintiff when the plaintiff stated emphatically that the sewer connection through the easement was adequate to serve its proposed development.

The only issue before this court is whether the New Canaan Water Pollution Control Authority (the "WPCA") acted within its reasonably exercised discretion when it denied the plaintiff's application to extend the public sewer within the Elm Street right-of-way.

As noted, the plaintiff has characterized his application as the "relocation" of an existing sewer pipe located within an easement on private property to a proposed new manhole in Elm Street through the creation of 135 feet of new pipe within the Town's Elm Street Right-of-way.

The significance of the plaintiff's attempt to characterize its application as something other than an extension is two-fold. First, General Statutes § 8-24 requires any "extension or location" of a municipal sewer to be referred to the Planning and Zoning Commission for a report.[1] Second, the discretion accorded the WPCA in reviewing an application to *extend* or *locate* a public sewer is broader than the discretion involved in an application to *connect* to an existing sewer.

When the plaintiff filed its application to the WPCA, it went to great lengths to avoid using the word "extension" (it could not avoid using the word "relocation"). It also emphasized that the application was not necessary; rather it was a "preference". The plaintiff stated that that it had every right to use the existing connection by way of an easement over private property. In ROR at page 6 of 1394, which is page 3 of the WPCA application cover letter, plaintiff's attorney devoted an entire section to the fact that the new sewer line[2] was an engineering

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[1] Specifically, with respects to sewers, § 8-24 states that a municipal agency (in this case the WPCA) shall not "(4) locate or extend public utilities and terminals for water, sewerage, light, power, transit and other purposes, until the proposal to take such action has been referred to the commission for a report."

[2] While the word "extension" is anathema to plaintiff, the plaintiff uses words like "move" and "relocate" to describe its application to add a manhole and construct 135 feet of new sewer pipe under Elm Street.

preference. In fact, the application cover letter reads in part, "If the *move* to Elm Street is denied, the applicant will use the private easement and existing connection for the multi-family use, subject to confirmation of capacity." (emphasis added)

In New Canaan, the Board of Finance is designated to act as the WPCA. The members of the Board of Finance have an excellent grasp of financial matters but have less "expertise" when it comes to matters of sewerage disposal. However, the WPCA has an excellent source of knowledge and technical advice. That source is the Town Engineer. The Town Engineer is effectively the WPCA's advisory staff. As it should, the WPCA relies on the advice and opinions of the Town Engineer when it comes to decisions involving the sewer system infrastructure. Consistent with that relationship, the WPCA asked the Town Engineer, Maria Coplit, to review the plaintiff's application and provide guidance on several issues. Among the issues the Town Engineer was asked to review were (1) whether the application involved an extension; and (2) whether the new sewer line and manhole benefitted the Town or any property owners other than the applicant.

Ms. Coplit initially spoke to the WPCA at its June 7, 2022 meeting. The transcript of the June 7th meeting begins at page 532 of 1394 of the Record. Ms. Coplit's testimony begins at page 563 of 1394 at line 18. (On the docket entry page it is entry 111.00 Return of Record, Part 2). Ms. Coplit noted at page 566 0f 1394, line 18:

> "In regards to the request for a revised sewer connection, due to the fact that the proposed work requires new sanitary sewer main piping in Elm Street, in an area where there currently is no sewer main located, a sanitary sewer main extension would be required of our public sewer main".

Ms. Coplit continued at page 568 of 1394 at line 8,

As noted in Footnote 1, above, the applicability of CGS § 8-24 is not limited to extensions...the "location" of a sewer is also the type of municipal improvement requiring a referral and report.

> "The additional estimated 135 linear feet of Sewer main would disrupt our existing right of way in Elm Street, and infrastructure therein, and would increase the length of the public main that the Town would be responsible for in perpetuity. The Town has no current nor future plans to extend the public sewer in this location".

Ms. Coplit had previously noted that the proposed new sewer main would not benefit any other property owners (at page 567 of 1394, lines 7 - 9) and that the requested extension (new sewer) was not a requirement to serve the subject property (at page 567 of 1394, lines 22-25). She referred to the applicant's statement and representation to the WPCA that the existing sewer lateral within a private easement and private property has ample capacity to handle the proposed additional discharge of the proposed development (Page 568 of 1394, lines 1-4). The Engineering Department then recommended that the sewer extension request not be granted.

At the continued WPCA meeting held on July 12, 2023, Ms. Coplit renewed her opinion that the application should not be granted and noted that the applicant cited no hardship or reason for approval beyond convenience of the applicant. Also located in Docket entry no. 111.00 – Return of Record, part 2, at pages 1036-1037 of 1394, beginning at line 2 on p. 1036 and concluding at line 8 on page 1037).

Based primarily on the Town Engineer's guidance from the June 7, 2022 meeting, the WPCA made a finding that the application involved an extension or location that required referral to the Planning and Zoning Commission (the "P & Z") under CGS § 8-24. Consequently, such a referral was made.[3] The P & Z wrote a negative report, but that report was NOT the primary reason the application was denied by the WPCA.[4] The application was denied because there was no reason other than the applicant's self-proclaimed convenience to approve

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[3] The report of the P & Z is not the subject of this appeal. In fact it is an advisory unappealable report. The failure of the project to receive an approval by either the P & Z or the New Canaan Town Council precludes the project from being implemented. That will be discussed later in this brief.

[4] The negative report was referenced in the denial but was not actually cited as a reason for denial.

it. The WPCA weighed that limited convenience against the disruption to Elm Street and the addition of a new manhole and 135 feet of new sewer main pipe that would have to be maintained by the Town in perpetuity and determined that since the applicant was not prejudiced by a denial (and admitted such), the Town did not need the additional infrastructure and the future responsibility that goes with it.

The application was accordingly denied and, notwithstanding the representation by the plaintiff's attorney that "[i]f the move to Elm Street is denied, the applicant will use the private easement...",[5] the instant appeal followed.

II. STANDARD OF REVIEW

A. By the WPCA.

The WPCA, like any administrative agency is the fact finder. Plaintiff argues that the WPCA's determination that the application involved an "extension" is not a factual determination. However, it is a factual determination and is not subject to plenary review. Rather, it is subject to a determination by this Court as to whether the finding was supported by substantial evidence and was not "clear error".

The plaintiff argues that the new pipe and manhole were not an extension because the property that would be *served* by the new pipe and manhole is already connected to the sewer through a private easement. However, the words "public utilities and terminals for...sewage..." in CGS § 8-24, according to the plain language of the statute should not be construed to be limited to or even mean the term "service". The word service is not even used in the statute. The word "terminal" is used. In the case of a sewer, the main line pipe is the terminus of the

[5] ROR at page 6 of 1394.

sewer lateral.[6] Clearly under any reading of the word "terminal", it connotes a physical structure. Since the sewer main (the terminal) does not now exist, and the plaintiff proposes to extend the existing sewer main (terminal) a distance of 135 feet and construct a new manhole, the WPCA was reasonably justified in determining, as a matter of fact, that the application involved an extension[7] of the public utilities and terminals for sewage.

The WPCA had ample substantial evidence presented to it to support its finding that the plaintiff's application required a referral to the P & Z under § 8-24.

Of course, it is not just the referral to the WPCA that hinges on the WPCA's finding that the proposal is an extension or location of the sewer main. The WPCA's level of discretion is also implicated.

In *Summit Saugatuck v. WPCA of Westport,* 193 Conn. App. 823 (2019)[8], the Appellate Court recognized the discretion vested in the WPCA when it involved a sewer extension. In that case, the Westport WPCA denied an extension request because certain work needed to be completed to the sewer system. The applicant argued that the WPCA did not have the discretion to deny the application when the WPCA could have approved the application conditioned upon completion of the sewer work.[9] The Appellate Court disagreed. Initially, the Court cited *Forest Walk, LLC v. Water Pollution Control Authority*, 291 Conn. 271, 279 (2009) for the proposition

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[6] A "sewer lateral" is the private pipe on private property that leads from a building to the sewer main located in this instance on Town owned property. The sewer main is the terminal for the lateral.

[7] Of course, § 8-24 also uses the word "location", in addition to "extension". The plaintiff has stated that the new sewer main and manhole is nothing more that a "relocation" of the exiting sewer connection. The plaintiff has not argued, nor could it reasonably argue, that § 8-24 does not apply to the location and therefore relocation of the sewer. The plaintiff proposes to "locate" a sewer main where it is not currently located.

[8] According to plaintiff's footnote 17, the Appellate Court reversed the trial court "on a procedural error basis". In fact, the reversal was based on the fact that the trial judge improperly substituted his judgment for the judgment of the Westport WPCA.

[9] The trial court determined that the WPCA was required to approve the application subject to a condition that the work be completed.

that water pollution control authorities are afforded broad discretion whether to provide sewer service to property owners. The Court went on to state that unless that discretion is exercised illegally, arbitrarily or abusively, the exercise of that discretion was entitled to deference from the court. The fact that the trial court would have come to a different conclusion was not grounds for the trial court to reverse the water pollution control's decision, provided that the agency did not abuse its discretion, act illegally, or act arbitrarily. Based on testimony from the Public Works director (who, in Westport served as the staff advisor to the WPCA), the Court held that the Westport WPCA was justified in relying on his testimony and that such testimony constituted sufficient, i.e. substantial evidence to support the WPCA's denial.

In the instant matter, the WPCA relied on the testimony of the Town Engineer (its staff advisor) that first advised that the proposed new sewer was an extension, and second recommended against approving the extension. Clearly that determination by the WPCA was not illegal, arbitrary or an abuse of discretion, even if the trial court might disagree with the conclusion. The WPCA met its review standard by relying on the substantial evidence proffered by the Town Engineer.

Common sense also dictates that the plaintiff's proposal involves an extension or at the very least a relocation. There is an existing sewer main on Elm Street. It *ends* at a manhole 135 feet east of the plaintiff's easterly boundary. The plaintiff has access to that manhole through a private easement running along the common property line of 313 Elm Street and 339 Elm Street. The new proposed sewer main would extend westerly along Elm Street from that manhole to a new manhole located on Elm Street at the intersection of plaintiff's eastern property line and Elm Street – a distance of 135 feet. The plaintiff claims that that additional 135 feet of sewer main and the new manhole are not extensions of the sewer. Its only stated rational is that the property

at 751 Weed already has access to the sewer through an easement, so the addition of 135 feet of sewer pipe and construction of a manhole – all within the Town's ROW on Elm Street – is simply a more convenient way for the plaintiff to get to the sewer main and does not involve adding service to any property that does not already have it. That argument might have some merit if a property already connected to an existing main line desired to move the connection to a new location on the same or another *existing* sewer main. In that case, only the *connection* is being relocated, the sewer main would remain as is. Here, more than a relocation of the connection is required – an entire new stretch of sewer main pipe and a new manhole are requested. Again, the plaintiff fails to distinguish between a connection and an extension. The WPCA, in the reasonable exercise of its discretion, did make that distinction.

B. By the Court

The WPCA is an administrative agency. As such, actions of the WPCA must be sustained by the court unless the court determines that the agency's action was illegal, arbitrary or an abuse of discretion. *Forest Walk, LLC v. Water Pollution Control Authority, 291 Conn. 271 285-286 (2009).* The WPCA performs two discreet functions when considering sewer service. The first is the approval of a connection or hook-up. This function occurs when sewers are in place and an abutting property owner is seeking the ability to connect to the existing sewer. The second is a determination as to whether the sewer line should or should not be extended to an area not serviced by public sewers. The instant action falls into the latter category.

With the different functions come different levels of discretion. Most of the cases cited by plaintiff deal exclusively with sewer connections. To the extent the cases cited concern

connections (not extensions), the WPCA *agrees* that it has very little discretion to deny an individual or entity the right to hook-up to an existing sewer.

In its brief, plaintiff repeatedly claims that sewers are public utilities and as such people have a right to connect to them.[10] The plaintiff's claim essentially eliminates any discretion the WPCA lawfully has to extend or locate a sewer line. The plaintiff would have the Court adopt a ministerial standard. That claim is misplaced because the broad discretion enjoyed by the WPCA is well-established. See *Summit Saugatuck, Id.* and *Forest Walk, Id.*

If the action is not ministerial, then it is subject to the same standard of review as any other administrative appeal. The same standards that would apply to a decision of a zoning board of appeals or a wetlands commission, for example, apply to a review of the decision of the WPCA. Essentially, the court is asked to determine if the decision of the administrative agency, in this case the WPCA, is supported by substantial evidence and if so, the decision will generally not be overturned. In addition, the court should not substitute its judgment for the judgment of the local body unless the local body acted illegally or abused its discretion. The scope of the court's review is limited in an administrative appeal. It is the role of the Superior Court, when an appeal is taken, to review the record to determine whether the administrative agency acted properly in the exercise of its functions and not to substitute its judgment for the judgment of the local authority. *DeMaria v. Planning & Zoning Commission*, 159 Conn. 540 (1970). An administrative appeal to the court does not require or permit the court to review evidence de novo or to substitute its findings and conclusions for the decision of the local authority. *Verney v. Planning & Zoning Board of Appeals*, 151 Conn. 578, 580 (1964). The sole question is

[10] Again, plaintiff conflates connections to *existing sewer mains*, with requests for a new, relocated or extended main line.

whether the authority acted legally and within its discretion. *Lindy's Restaurant, Inc. v. Zoning Board of Appeals*, 143 Conn. 620, 622 (1956). If the local authority's decision is reasonably supported by substantial evidence in the record, the reviewing court is not able to disturb that decision on appeal. *Bora v. Zoning Board of Appeals*, 161 Conn at 297, 299 (1972).

It is well settled in Connecticut that the decisions of local administrative agencies, acting in an administrative capacity are afforded great deference, and they are to be overruled only when it is found that the authority had not acted fairly, with proper motive and upon valid reason. *McMahon v. Board of Zoning Appeals*, 140 Conn. 433, 438 (1953); *Mallory v. West Hartford,* 138 Conn. 497, 505 (1952). "'Where it appears that an honest judgment has been reasonably and fairly exercised after a full hearing, courts should be cautious about disturbing the decision of the local authority.'" *McMahon, supra*, 140 Conn. at 438, *quoting Kutcher v. Town Planning Commission*, 138 Conn. 705, 710, 88 A.2d 538 (1952). The court may only grant relief on appeal if it finds that the local authority acted illegally, arbitrarily or in an abuse of its discretion. *Raybestos-Manhattan. Inc. v. Planning and Zoning Commission*, 186 Conn. 466, 470 (1982). The plaintiff has not alleged oppression or fraud and the decision was certainly not arbitrary or an abuse of discretion as it came after a lengthy hearing with supporting expert (substantial) evidence. The test, then, is not whether the court would agree with the decision of the administrative body, but rather whether the administrative body's decision was based on substantial evidence and was not wrongful. In the instant action, the WPCA's decision to deny extension/location was clearly supported by substantial evidence and was just as clearly arrived at after proper debate and consideration.

III. ARGUMENT

A. It is the Obligation and Duty of the WPCA to Determine the Location of Sewer Facilities.

Chapter 103 of the General Statutes establishes the powers and duties of water pollution control authorities. Those powers are broad and include the power to "own, use equip, reequip, repair, maintain, supervise, manage, operate and perform any act pertinent to the collection, transportation and disposal of sewage" [CGS § 7-245(8)]. The discretion to exercise those powers is also broad. *Forest Walk, LLC v. Water Pollution Control Authority of the Town of Middlebury,* 291 Conn. 271 (2009) is an instructive case on several levels.

First, at pages 284 and 285, the Court reiterated that water pollution control authorities have broad discretion to determine whether, and under what circumstances, sewer service should be provided within their municipalities. The Court also confirmed that there is a strong presumption of regularity in the proceedings of a public agency. *Id.* at 286.

In the instant matter that "strong presumption of regularity" includes a presumption that the decision of the WPCA was not motivated by land use considerations or any other unlawful motivation or bias. Additionally, beyond the strong presumption of regularity is the advice and recommendation of the Town Engineer. While the WPCA was free to ignore that advice, it chose not to and based its decision on the clear lack of need for the extension and the expense of future maintenance obligations. The WPCA based its decision on factors that it determined were in the best interests of the Town, not the convenience of the plaintiff.

The plaintiff argues in its brief that the discretion of the WPCA is not unlimited and can be overruled if abused. The plaintiff argues that fraud, oppression, or arbitrary action are grounds for reversal of a WPCA decision. *The WPCA agrees.* The plaintiff cites no claims of fraud, oppression

or arbitrary action. Instead, the plaintiff implies, without evidence, that the decision of the WPCA was based on land use considerations. In the plaintiff's words, it was "pretextual." Specifically, the plaintiff claims that the decision of the WPCA was part of a effort to thrwart the plaintiff's construction of a large multi-family development. However, there is nothing in the record that supports the proposition that the *WPCA's decision* was in any way based on improper motives.

It is admitted that during the course of the public hearing, many members of the public spoke out against the project. It is further admitted that the project itself has inflamed passions in New Canaan. Nevertheless, there is NO evidence that those opinions or inflamed passions affected the WPCA in any way or resulted in the denial.

The location of sewer lines should not be determined by the wishes or conveniences of developers. The location and existence of sewer infrastructure must be made by a municipal authority to avoid haphazard and unplanned facilities.

As plaintiff stated in its brief, the Town of New Canaan has no sewer service district. Rather, the Town merely identifies those properties that are connected to the sewer system. The plaintiff's property is one of those properties and the house on that property is connected to the municipal sewer system. It is plaintiff's position that the property owner has the unfettered and absolute right to relocate that connection to its *sole* benefit, even if it requires adding an additional 135 feet of public sewer pipe and a new manhole in the public street. The plaintiff argues that it and it alone has the right to make that decision because once connected, the WPCA has no role other than to approve a *connection* and allocate capacity. Plaintiff would treat the application as if the new sewer main were already in place and the plaintiff was doing nothing more than changing its connection location to that preexisting sewer line. Of course, that is not the case.

The real import of plaintiff's application was to get approval to add 135 linear feet of sewer main and a manhole to the existing sewer system.

B. Plaintiff's Preference or Convenience Should Not Dictate Public Policy

As previously noted, plaintiff's attorney, in his submission cover letter stated unequivocally that the new sewer pipe and manhole were a preference of the applicant and for the convenience of the "town and neighbors" (ROR p. 6 of 1394). While it may be presumptuous of the plaintiff to decide what the town's convenience is, it is equally difficult to see how the neighbors' convenience might be improved. No other properties could benefit from the new sewer or manhole. **All** other properties adjacent to the new sewer line are already connected to the sewer. If anything, the neighbors will be inconvenienced when Elm Street is closed to install the new sewer and manhole or anytime in the future when maintenance or repairs may be required for the new sewer.

Plaintiff points to no public convenience or benefits that would result from the installation of the new sewer and manhole. None. Plaintiff does not even attempt to categorize its proposed extension as something that will benefit anyone other than itself. The benefit to the plaintiff is not even tangible. It simply moves the connection closer to the plaintiff's property but does not provide additional capacity or availability to the sewer. As plaintiff stated, everything it needs by way of sewage discharge exists through the private easement.

C. References to § 8-24 Are Irrelevant to the Subject Appeal

The WPCA determined that the activity proposed by the plaintiff constituted the type of activity requiring a referral to the P & Z. Consequently, the application was referred to the P & Z for a report. It is important to note the plaintiff's application to the WPCA specified that it was seeking approvals for a 102-unit, multi-family development. Plaintiff argues that the P & Z was

not permitted to look at the nature of the project to be served by the sewer extension, but instead was limited to reviewing the sewer extension in a vacuum. The plaintiff even claims that the Town Attorney so advised the P & Z.[11]

The significance of the 8-24 process is a red herring. The WPCA denied the application on the basis of factors independent of the P & Z's report. In addition, a negative 8-24 report does not eliminate the need for the WPCA to act on the application, it merely precludes the project from going forward until a two-thirds vote of the town council is obtained. However, since § 8-24 reports are not appealable, the content of the report is outside the scope of this Court's review.[12]

D. The WPCA Discretion Was Reasonably Exercised

Plaintiff believes, or at least states, that the WPCA had no discretion to deny the application. In the alternative plaintiff claims the discretion was exercised in an arbitrary manner. *Summit Saugatuck v. WPCA of Westport,* 193 Conn. App. 823 (2019) established that a decision to extend a sewer line is discretionary. The only way that the WPCA could have no discretion is if the plaintiff were proposing a purely ministerial act. It has previously been argued that the application sought the extension or relocation of an existing sewer line. If the Court finds that categorization to be incorrect, then the WPCA would have had no discretion to deny it application.

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[11] The Town Attorney advised the P & Z that 8-24 reports are made in the Commission's planning capacity and that one of the considerations is the POCD. The P & Z was also advised that § 8-24 does not specify the parameters of the Commission's review and thus whatever factors the Commission felt were relevant could be included in the report. Since the report is advisory, the P & Z could consider a broad range of factors, including the nature of the application.

[12] As noted, the WPCA takes the position that a negative 8-24 report by the Commission precludes a municipal improvement from proceeding absent a two-thirds vote by the town council in favor of implementing the project. The relevant language from the statute is, "A proposal disapproved by the commission shall be adopted by the municipality or, in the case of disapproval of a proposal by the commission subsequent to final action by a municipality approving an appropriation for the proposal and the method of financing of such appropriation, such final action shall be effective, only after the subsequent approval of the proposal by (A) a two-thirds vote of the town council where one exists…".

However it is important to note that the WPCA made two independent decisions based on two separate votes. The first decision determined that in the view of the WPCA the application was to *extend* the sewer. That decision was supported by an expert opinion from the Town Engineer.[13] The second decision was to deny the extension request. That decision was also based on the Town Engineer's opinion, which provided in part,

> "The current application before the WPCA states that the project does *require* the sanitary sewer main extension work within Elm Street, that the existing sewer collector system contained within a private easement and private property, quote, "Has ample capacity to handle the proposed discharge." Given this declaration, or department would recommend that the requested sewer main work within the right of way of Elm Street not be granted, whether beneath the travelway or on the shoulder as an alternate route was proposed. The applicant did not present any hardship requiring this work within the right of way and the Town has no current or future plans to extend the public sewer at this location. The disruption to our existing right of way in Elm Street and infrastructure therein hasn't been justified and would also increase the length of public main that the Town would be responsible for in perpetuity." (emphasis added). ROR Transcript of July 12 , 2022 hearing at pages 1036 and 1037 of 1394.

The WPCA was completely justified in relying on the opinion of the Town Engineer when she recommended against denial. Even if a reasonable person might disagree with the WPCA's reliance on the Town Engineer's opinion, there can be no question that the opinion constituted substantial evidence and formed a valid reason for the WPCA's ultimate exercise of discretion and final decision.

IV. CONCLUSION

Despite plaintiff's inventive use of phraseology, when a new sewer main line (where one does not now exist) must be constructed from the terminus of the existing sewer line in order to accommodate a relocated connection, the sewer has been extended. The decisions by the WPCA

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[13] The Town Engineer, Maria Coplit, stated at page 566 of 1394, transcript of June 7, 2022 hearing), "In regards to the request for a revised sewer connection, due to the fact that the proposed work requires new sanitary sewer main piping in Elm Street, in an area where there currently is no sewer main located, a sanitary sewer main extension would be required of our public sewer main."

to first conclude that the work did constitute an extension and second to conclude that the extension was inappropriate and unnecessary were supported by substantial evidence and were not the result of the WPCA abusing its discretion.

For all of the reasons stated herein, this appeal should be dismissed.

Respectfully submitted,

WATER POLLUTION CONTROL AUTHORITY OF THE TOWN OF NEW CANAAN

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CERTIFICATION

This is to certify that a copy of the foregoing was or will immediately be mailed or delivered electronically or non-electronically on this 17th day of January, 2023 to all counsel and self-represented parties of record and to the client and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were or will immediately be electronically served.

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